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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,947	03/26/2004	Karl Martin Aegerter	AEGRK-001A	9898
7663	7590	09/12/2005	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER 75 ENTERPRISE, SUITE 250 ALISO VIEJO, CA 92656			NGUYEN, NINH H	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding:

**Office Action Summary**

Application No.

10/810,947

Applicant(s)

AEGERTER, KARL MARTIN

Examiner

Ninh H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-26 is/are allowed.
- 6) ☒ Claim(s) 27-31, 33 and 34 is/are rejected.
- 7) ☒ Claim(s) 32, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Re-numbering***

There are two claims 35 in the application. Therefore, the second claim 35 has been re-numbered as claim 36 according to rule 1. 126.

### ***Claim Objections***

1. Claim 27 is objected to because of the following informalities: on line 7, after “at a midsection of said hub, ”, “said hub” should be changed to --said wheel-- .

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 27-29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Aegerter (WO 79/00969).

Aegerter discloses a gas-jet driven device (Figs. 9-13) comprising a rotor comprising a hub 16a adapted to rotate about a center axis; a jacketed wheel 36a concentrically surrounding the hub and connected to the hub by a jacketed radial section 26a, and having a radially inclined arm 144 attached to a bottom end of the hub, the wheel supported by a plurality of tubular radial spokes 26a-28a; and a gas conduit having an inlet 35a and exhaust outlet 147, the conduit

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defined by a first section routed through a first upper vertical section of the hub (Figs. 9, 10), a second section routed through one of the plurality of spokes, a third section routed through a lower internal annular section of the hub, and a fourth section routed through the radial arm and terminating at the exhaust outlet 147; wherein the rotor is driven about the center axis by flowing pressurized gas through the inlet such that a jet is formed at the exhaust outlet;

wherein the device further comprising a housing 12a (Fig. 9) adapted to support the hub in a vertical orientation about the center axis and to substantially enclose and support the hub and the jacketed wheel in a horizontally orientation; and

wherein the hub rotatably mounted to the upper and lower walls by bearings 17a, 18a (Fig. 10).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aegerter.

Aegerter discloses all the limitations except there is not a cylindrical wall positioned between the upper and lower walls as claimed.

Since the applicant has not disclosed that having a cylindrical wall positioned between the upper and lower walls solves any stated problem or is for any particular purpose above the fact that the cylindrical wall is only a part of a stationary housing and it appears that the

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transverse wall part between upper wall 14a and lower wall 13a of Aegerter would perform equally well with the shape as defined claimed by applicant, it would have been an obvious matter of design choice to modify the transverse wall part of Aegerter by utilizing the specific shape as claimed.

6. Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aegerter in view of Kollsman (2,569,997).

Aegerter discloses all the limitations except the device does not comprise a base stand for supporting the rotor above a floor as claimed.

Kollsman teaches a jet device (Fig. 1) comprising a rotor disposed inside a housing 11, and the housing is supported on a base stand 12 having a square foot print for supporting the device.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made, to make the device of Aegerter with a base stand of Kollsman for the purpose of providing a support for the device as taught by Kollsman.

#### ***Allowable Subject Matter***

7. Claims 1-15, and 16-26, due to the limitation of a metallic band snugly encircling the part defining the orbital path to add mass to the rotor, are allowed.

8. Claims 32, 35, and 36 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

The prior art made of record but not relied upon is considered pertinent to applicant's disclosure and consists of 1 patent.

Green (3,026,088) is cited to show a jet-driven turbine.

***Conclusion***

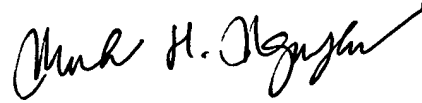
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Ninh Nguyen whose telephone number is (571) 272-4823. The examiner can be normally reached on Monday-Friday from 7:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached at (571) 272-4820. The fax number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, please go to <http://pair-direct.uspto.gov> or contact the Electronic Business center (EBC) at 866-217-9197 (toll-free).



**NINH H. NGUYEN**  
**PRIMARY EXAMINER**

Nhn  
September 2, 2005